



Minneapolis
City of Lakes

Office of the City Attorney

Jay M. Heffern
City Attorney

333 South 7th Street - Suite 300
Minneapolis MN 55402-2453

Office 612 673-2010
Civil Division Fax 612 673-3362
Criminal Division Fax 612 673-2189
MCDA Fax 612 673-5112
TTY 612 673-2157

TO: Council Member Niziolek, Chair
Public Safety and Regulatory Services Committee
Minneapolis City Council
307 City Hall

FROM: Scott Reeves
Assistant City Attorney

DATE: June 26, 2003

RE: Request To Abate Special Assessment
At 1833 E. 25^{1/2} Street

MEMORANDUM

Recently the Public Safety and Regulatory Services Committee voted to refer to the claims process a request for abatement of a special assessment upon 1833 East 25 1/2 Street for demolition costs of \$11,355.00 plus accrued interest.

Our office has reviewed the jurisdiction of the committees involved in this matter. We have concluded that the matter was improvidently referred to the claims process and should be returned to your committee.

Monetary claims within the dollar limits of the Staff Claims Committee are administered by the Risk Management Office. They are referred for action to the Staff Claims Committee. The Staff Claims Committee was created by resolution of the City Council. Pursuant to that resolution, the Staff Claims Committee has jurisdiction only to pay or settle monetary claims against the City up to \$25,000.00. The Staff Claims Committee has no jurisdiction to rescind a City Council action levying an assessment against real property.

This matter is not a claim for money damages. It is a request to rescind a formal action of the City Council levying an assessment against the subject property. If a citizen filed a claim with Risk Management seeking abatement of an assessment, Risk Management would decline to process the claim as outside its jurisdiction. Likewise, if this matter came before the Staff Claims Committee, our office would advise that it is not within the Committee's jurisdiction.

The original levy was recommended by the PS & RS Committee, approved by the City Council and Mayor, and certified to the Hennepin County Property Taxation Department. Abatement of the levy would require the same formalities. Our office believes the request for abatement of assessment should appropriately be handled by your committee, with final action by the City Council and Mayor in a form suitable for certification to Hennepin County, if necessary.

This matter was previously investigated by Assistant City Attorney Larry Cooperman. A summary of the facts follows. The property was tax forfeited in 1997. In 1999 the structure on the property was demolished by the City under the hazardous building ordinance. After demolition, there was a record of pending assessment on file at the Inspections Department available to any prospective purchaser. In May,

2000 the property was sold by Hennepin County at a tax forfeited land sale to Messrs. Imankey and Abu. At that time, the City had not yet sent a Notice of Intent to Assess to the owner nor had it levied the assessment. On April 17, 2001, the City sent a Notice of Intent to Assess to the Hennepin County Tax Forfeited Land Department, notifying of a hearing to be conducted on May 16, 2001. The notice was not sent to Messrs. Imankey and Abu.

The assessment was levied by Council Resolution 2001R-466 adopted November 9, 2001. The property was sold by Imankey and Abu to Antonio Holliday December 17, 2001 by quit claim deed. The quit claim deed was recorded on December 28, 2001. There is a lag time between the date of levy and when it appears on County records, generally from about November until the following February. Mr. Holliday has stated that when he recorded his deed a Hennepin County clerical employee told him there were no outstanding special assessments. However, this conversation apparently occurred after Mr. Holliday had purchased the property. A prudent purchaser, using due diligence, would have conducted a search for pending assessments before purchasing the property.

It is clear that the City failed to notify the property owners, Imankey and Abu, when it served its Notice of Intent to Assess in April, 2001. On the other hand, the terms of a tax forfeited property sale clearly state that the purchaser is responsible for special assessments levied after the sale, even for local improvements completed by local jurisdictions prior to the sale. Also, a record of pending assessment was available to a prospective purchaser prior to the sale to Mr. Holliday.

Our office is available to conduct additional investigation or to provide legal advice concerning your options for resolving this matter.

cc: Council Member Dean Zimmerman
Peter Ginder
Merwyn Larson
Ellen Velasco-Thompson
✓ Jackie Hanson